

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL MISC.APPLICATION No. 5427 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

=====

1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
?

=====

HARISHBHAI BHAGVANDAS DOLTANI & 2 - Applicant(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

=====

Appearance :

MR HR PRAJAPATI for Applicant(s) : 1 - 3.
MR DIPEN DESAI, APP for Respondent(s) : 1,
MR AR GUPTA for Respondent(s) : 2,

=====

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 08/10/2007

ORAL JUDGMENT

1.The applicants-original accused has prayed for
quashing of complaint and pursuant order of
investigation under Section 156 of the Criminal

Procedure Code.

2. It is not in dispute that the applicants had obtained loan from respondent no.2-Bank. It is also not much in dispute that entire amount of loan was repaid. Since some immovable property of the applicants was mortgaged with the Bank to cover the loan and since as per the Bank the mortgaged property was sold without permission of or intimation to the Bank, they filed the complaint dated 21.2.2000 alleging offences punishable under Sections 420 and 114 of Indian Penal Code against the applicants. This complaint was filed before Judicial Magistrate First Class, Kalol who called for further investigation under Section 156 of the Criminal Procedure Code. At that stage the applicants approached this Court and obtained stay.
3. Learned advocate for the applicants submitted that Bank had filed Civil Suit and thereafter, lodged the above-mentioned complaint clearly revealing that the nature of dispute between the parties is of civil nature.
4. On the other hand, learned advocate Ms. Benazir Hakim for Shri Gupta for respondent no.2 bank as well as learned APP Shri Dipen Desai for State opposed the application.
5. Having heard the learned advocates appearing for

the parties, we find that the complainant had revealed basic ingredients necessary to disclose the offence having been committed by the applicants. From the limited jurisdiction available to this Court in examining the petition for quashing of complaint under Section 482 of the Criminal Procedure Code, it is not possible to conclude that the allegations contained in the complaint even if taken on face value, disclosed no offence.

6. In the result, application fails, is hereby dismissed. Rule is discharged. Interim relief vacated.

(Akil Kureshi, J.)

(raghu)